

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

Does this action include a motion for temporary restraining order or order to show cause? Yes No

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF	PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 330 Federal Employers' Liability	PROPERTY RIGHTS	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 385 Property Damage	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 386 Product Liability	SOCIAL SECURITY	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	IMMIGRATION	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence		<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty	FEDERAL TAX SUITS	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	Other:	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 950 Constitutionality of State Statutes
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

<input type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
--	---	--	---	--	--	---

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): _____

VI. CAUSE OF ACTION

Brief description of cause: _____

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): _____

JUDGE _____

DOCKET NUMBER _____

DATE _____

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

Local Arbitration Rule 83.7 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration

I, _____, counsel for _____, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
the complaint seeks injunctive relief,
the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more or its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? Yes No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? Yes No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes No
 - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received: _____.

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? Yes No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

JESSICA FREEMAN,)
)
Plaintiff,)
)
v.)
)
CHIPOTLE MEXICAN GRILL, INC., and)
CHIPOTLE SERVICES, LLC d/b/a)
CHIPOTLE MEXICAN GRILL,)
)
Defendants. _____

Case No.: _____

NOTICE OF REMOVAL

COME NOW Defendants Chipotle Mexican Grill, Inc. (“CMG”) and Chipotle Services, LLC (“Chipotle Services” and collectively “Chipotle” or “Defendants”), by and through the undersigned counsel, and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and hereby file this Notice of Removal of the above-styled action, originally filed in the Supreme Court of the State of New York, County of Nassau, to the United States District Court for the Eastern District of New York. In support of removal, Chipotle provides the following “short and plain statement of the grounds for removal.” 28 U.S.C. § 1446(a).¹

I. NATURE OF THE ACTION

1. On or about May 9, 2022, Plaintiff Jessica Freeman (“Plaintiff”) initiated a civil action in the Supreme Court of the State of New York, County of Nassau, Index No. 606045/2022 (the “State Court Action”), naming Chipotle Mexican Grill, Inc. and Chipotle Services, LLC as Defendants. A true and correct copy of all pleadings, process, and other papers and exhibits of every kind filed in the State Court Action are attached hereto as **Exhibit A**.

¹ Chipotle Mexican Grill, Inc. and Chipotle Services, LLC are the named Defendants and appear here in the exercise of their rights of removal under federal law. Chipotle reserves all procedural, substantive, and other defenses, arguments, and claims available in response to the Complaint.

2. Plaintiff's Complaint alleges discrimination on the basis of sexual orientation in violation of the New York State Human Rights Law, Executive Law § 296, *et seq.* ("NYSHRL"). (Ex. A, Complaint at ¶ 1).

3. Chipotle hereby removes this action, invoking the Court's diversity jurisdiction over this matter and noting that this Court is the proper venue, as specifically described below.

II. REMOVAL IS PROPER BASED ON DIVERSITY JURISDICTION

4. Removal of this case is proper under 28 U.S.C. § 1332 and 1441(b) because this Court has original jurisdiction over this civil action based on the fact that complete diversity of citizenship exists and the amount in controversy exceeds \$75,000.00, exclusive of interests and costs.

5. Upon information and belief, Plaintiff was a citizen of the State of New York at the time the State Court Action was filed and at all times since. (Ex. A, Complaint, ¶ 2).

6. Pursuant to 28 U.S.C. § 1332(c)(1), a corporation is deemed to be a citizen of the state by which it has been incorporated and of any state where it has its principal place of business. CMG is incorporated under the laws of the State of Delaware and its principal place of business is 610 Newport Center Drive, Suite 1300, Newport Beach, CA 92660. CMG is therefore a citizen of the states of Delaware and California for purposes of diversity jurisdiction under 28 U.S.C. § 1332(c)(1).

7. Chipotle Services is a limited liability company which is a wholly owned subsidiary of CMG wherein CMG is the sole member. Accordingly, Chipotle Services is also a citizen of Delaware and California. As such, there is complete diversity of citizenship between the parties.

8. According to the Complaint, Plaintiff seeks "all lost wages and benefits resulting from Defendant's (sic) unlawful discrimination and retaliation" as well as "compensatory damages

for mental, emotional and physical injury, distress, pain and suffering and injury to her reputation” and “punitive damages.” (Ex. A, Complaint, ¶¶ 28 (B-D)).

9. Plaintiff alleges that she was earning a salary of \$56,000 per year and that her last day of work with Chipotle was July 25, 2020. (Ex. A, Complaint ¶¶ 6, 9).

10. An award of lost wages alone for the period of nearly 22 months since Plaintiff’s employment ended would equal approximately \$102,666.67, well over the \$75,000.00 threshold for establishing diversity jurisdiction, exclusive of interests and costs.

III. VENUE IS PROPER IN THE EASTERN DISTRICT OF NEW YORK

11. Under 28 U.S.C. § 1441(a), a case may be removed to a United States district court “for the district and division embracing the place where such action is pending.” This action is currently pending in the Supreme Court of the State of New York, County of Nassau. Nassau County is within the jurisdiction of the Eastern District of New York. As such, this Court is the United States District Court which embraces the place where the State Court Action is currently pending.

IV. REMOVAL IS PROCEDURALLY PROPER

12. This Notice of Removal is timely under 28 U.S.C. § 1446(b). The Complaint was filed on May 9, 2022 and served on May 18, 2022. (*See Exhibit A.*) Because removal is made within thirty days of service, this Notice of Removal is timely. *See 28 U.S.C. § 1446(b); Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347 (1999).

13. Pursuant to 28 U.S.C. § 1446(a), all documents filed in the State Court Action, the copy of the docket sheet in the State Court Action, and copies of all process and pleadings in the State Court Action are attached to this Notice of Removal as **Exhibit A**. Chipotle has not yet filed its answer in the State Court Action.

14. Chipotle will concurrently file a Notice of Filing of Notice of Removal with the clerk of the state court in which the State Court Action was pending and serve a copy on Plaintiff's counsel pursuant to 28 U.S.C. § 1446(a) and (d). Attached hereto as **Exhibit B** is a copy of the Notice of Filing Notice of Removal, excluding exhibits.

15. Chipotle has paid the appropriate filing fee to the Clerk of this Court upon the filing of this Notice.

V. NON-WAIVER OF DEFENSES

16. By filing this Notice of Removal, Chipotle does not waive any defenses available to it. Chipotle does not admit, and in fact specifically denies, that the Complaint states a claim upon which relief may be granted, or that Plaintiff is entitled to any damages or any other relief sought in the Complaint.

VI. REQUEST FOR ADDITIONAL ARGUMENTS AND EVIDENCE IF NEEDED

17. As the party requesting removal, Chipotle's instant Notice of Removal has satisfied its obligation to provide a "short and plain statement of the grounds for removal." *Dart Cherokee Basin Operating Co. v. Owens*, 574 U.S. 81, 87 (2014) (citing 28 U.S.C. § 1446(a)). "Congress, by borrowing the familiar 'short and plain statement' standard from Rule 8(a), intended to 'simplify the pleading requirements for removal' and to clarify that courts should 'apply the same liberal rules [to removal allegations] that are applied to other matters of pleading.'" *Dart Cherokee Basin Operating Co.*, 574 U.S. at 87. Chipotle has satisfied this standard here; however, should the Court so request, the factual allegations in this pleading will be supported by affidavit or other summary-judgment-type evidence.

18. In the event Plaintiff files a motion or other request to remand, or the Court considers remand *sua sponte*, Chipotle reserves all rights to submit such additional argument

and/or evidence in support of removal as may be necessary or appropriate, including competent evidence as to the amount in controversy or diversity of citizenship.

WHEREFORE, for the aforementioned reasons, this action is removed to and should proceed in the United States District Court for the Eastern District of New York.

This 6th day of June, 2022.

Respectfully submitted,

/s/ Kelly N. Jines

Kelly N. Jines, Esq.
New York Bar Number: 5337753
MARTENSON, HASBROUCK, & SIMON LLP
40 Exchange Place, Suite 1502
New York, NY 10005
Telephone: (332) 345-2470
kjines@martensonlaw.com

-and-

Elizabeth Bulat Turner (*pro hac vice* application forthcoming)
bturner@martensonlaw.com
Lindsay M. McCall (*pro hac vice* application forthcoming)
lmccall@martensonlaw.com
MARTENSON, HASBROUCK, & SIMON LLP
2573 Apple Valley Road NE
Atlanta, Georgia 30319
Telephone: (404) 909-8100

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 6, 2022, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF system, which automatically sends notice of the filing to Plaintiff's counsel of record. The foregoing document is also being served by U.S. Mail First Class to Plaintiff's counsel of record.

Cathryn Harris-Marchesi, Esq.
Darnisha A. Lewis-Bonilla, Esq.
Phillips & Associates, Attorneys at Law, PLLC
585 Stewart Ave., Suite 410
Garden City, New York 11530
Charris-marchesi@tpglaws.com
dlewis-bonilla@tpglaw.com

/s/ Kelly N. Jines

Kelly N. Jines, Esq.